

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID EDWARD ELLISTON, JR.,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Docket No. 83217
Nov 30 2021 02:33 p.m.
Elizabeth A. Brown
Dist Ct: 20CR0012113
Clerk of Supreme Court

**MOTION FOR ENLARGEMENT OF TIME IN WHICH TO FILE
APPELLANT'S OPENING BRIEF**

COMES NOW, Defendant/Appellant, DAVID EDWARD ELLISTON, JR., by and through KARLA K. BUTKO, ESQ, counsel of record, and hereby requests leave of court for an extension of time in which to file Appellant's Opening Brief in this matter.

Counsel certifies the following information to this Court:

1. Counsel has contacted the Carson City District Attorney's Office; Melanie Brantingham, Chief Deputy District Attorney is assigned the case and has agree to the extra time requested.

2. Counsel has explained the need for a

continuance to her client and he has no objection to this continuance. Mr. Elliston is in custody and counsel was able to meet with him at Warm Springs Correctional Center. Counsel received the trial transcripts last week and the court file yesterday. When preparing the Appendix for this Court it was discovered that a motion to suppress transcript that relates to the issues on appeal has never been transcribed and that counsel needs to obtain the court JAVS and deliver that to the court reporter for transcription. The request for the single hearing transcript was mailed today. Certain documents in the court file were not delivered in the file request and have been ordered as well. Trial counsel has not yet delivered the trial file, in spite of many attempts to gain access to the client file.

4. The issues are in need of additional time and research by counsel to properly prepare the Opening Brief.

5. This attorney does not routinely seek continuances.

6. Due to the repeated hospitalization of this

attorney's Husband, Dave, counsel did not note the nature of the problem with court records prior to putting this Appendix together today.

7. Counsel certifies that this request for continuance is not for purposes of delay and is required in order to properly litigate this appeal and provide this Court the best project possible. The procedural issues are such that additional research will be required.

8. Counsel believes that she will be able to prepare the Opening Brief and Appendix by December 17, 2021, an approximate six week continuance.

WHEREFORE, counsel requests an extension from the current due date, in which to file Appellant's Opening Brief, i.e. to the date of December 17, 2021.

DATED this 30 day of November, 2021.

By: Karla K. Butko
KARLA K. BUTKO, ESQ.
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CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I certify that I am an employee of KARLA K. BUTKO, LTD., P. O. Box 1249, Verdi, NV 89439, and that on this date I caused the foregoing document to be delivered to all parties to this action by

X E-Flex delivery through the Nevada Supreme Court e-flex system

addressed as follows:

Melanie Brantingham
Carson City District Attorney's Office
885 E. Musser, #2030
Carson City, NV 89701

DATED this 30 day of November, 2021.

Karla K. Butko
Karla K. Butko, Esq.